

Introduced by Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Corbett, Denham, Florez, Harman, Simitian, and Yee)

March 22, 2007

An act to amend Sections 6533, 7058, 7071.6, 7071.9, 9812.5, 9830.5, 9831, 9832.5, 9841, 9847.5, 9848, 9849, 9851, 9853, 9855.7, 9855.8, 9855.9, 9860, 9862.5, 9863, 9873, 19008.1, 19129, 19132, and 19170.5 of, and to add Sections 101.7 and 9884.20 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1047, as introduced, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs which is comprised of various boards and similar entities with responsibilities for the licensure and regulation of various licensed professions and vocations. Under existing law, the department is under the control of the Director of Consumer Affairs.

This bill would require each of those boards to meet at least 3 times each calendar year and at least once each calendar year in Northern California and in Southern California. The bill would authorize the director to exempt any board from the meeting requirement upon a showing of good cause and to call a special meeting of the board when a board is not fulfilling its duties.

(2) Existing law, the Professional Fiduciaries Act, requires a person to meet specified requirements for licensure as a professional fiduciary, including the possession of either a baccalaureate degree of arts or sciences, an associate of arts or science degree and at least 5 years experience with substantive fiduciary responsibilities, as specified, or

experience of not less than 3 years with substantive fiduciary responsibilities, as specified.

This bill would instead require possession of either a baccalaureate degree of arts or sciences, an associate of arts or sciences degree and at least 3 years experience working as a professional fiduciary or working with substantive fiduciary responsibilities, as specified, or experience of not less than 5 years working as a professional fiduciary or working with substantive fiduciary responsibilities, as specified.

(3) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board.

The bill would make nonsubstantive, technical changes to provisions of that law.

(4) The Electronic and Appliance Repair Dealer Registration Law provides for registration and regulation of service dealers and service contractors by the Bureau of Electronic and Appliance Repair in the Department of Consumer Affairs.

Existing law regulating service contractors will be repealed on January 1, 2008. Existing law requires persons acting as service contractors to be registered, and provides for various criminal penalties for a violation of these provisions.

This bill would extend the operation of these provisions until January 1, 2013. Because these criminal penalties would be extended, the bill would impose a state-mandated local program by expanding the scope of a crime.

Existing law requires the Director of Consumer Affairs to validate the registration and send proof of validation to the service dealer. Under existing law, the director may refuse to validate, or may temporarily or permanently invalidate the registration of a service dealer for specified acts or omissions done by the service dealer or associated person.

This bill would instead require the director to issue the registration and send proof of issuance to the service dealer. The bill would instead authorize the director to deny, suspend, revoke, or place on probation the registration of a service dealer for specified acts or omissions done by the service dealer or associated person and would also add to that list of specified acts or omissions.

(5) Existing law, the Automotive Repair Act, provides for the licensure and regulation of automotive repair dealers. Under existing law, there is a Bureau of Automotive Repair, which is under the supervision of the Director of Consumer Affairs. Existing law authorizes

the director and the Chief of the Bureau of Automotive Repair to bring disciplinary actions against an automotive repair dealer.

This bill would provide that all accusations against an automotive repair dealer shall be filed within 3 years after the act or omission alleged as the ground for disciplinary action, except that an accusation alleging fraud or misrepresentation may be filed within 2 years after the bureau's discovery of the fraud or misrepresentation, as specified.

(6) Under existing law, the Home Furnishings and Thermal Insulation Act, there is the Bureau of Home Furnishings and Thermal Insulation which is responsible for the licensure and regulation of, among others, upholstered furniture retailers, bedding retailers, and upholstered furniture and bedding wholesalers. A violation of the act is a crime.

Under existing law, a license that is not renewed within one year of expiration is canceled; however, the holder of a license may apply to have his or her license restored, reinstated, or reissued if specified requirements are met.

This bill would delete that provision authorizing the holder of a license to have his or her license restored, reinstated, or reissued.

Existing law requires secondhand, as defined, bedding to be sanitized before it is sold.

This bill would extend that requirement to used, as defined, bedding. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 101.7 is added to the Business and
- 2 Professions Code, to read:
- 3 101.7. (a) Notwithstanding any other provision of law, boards
- 4 shall meet at least three times each calendar year. Boards shall
- 5 meet at least once each calendar year in Northern California and
- 6 once each calendar year in Southern California in order to facilitate
- 7 participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

SEC. 2. Section 6533 of the Business and Professions Code is amended to read:

6533. In order to meet the qualifications for licensure as a professional fiduciary a person shall meet all of the following requirements:

(a) Be at least 21 years of age.

(b) Be a United States citizen, or be legally admitted to the United States.

(c) Have not committed any acts that are ground for denial of a license under Section 480 or 6536.

(d) Submit fingerprint images as specified in Section 6533.5 in order to obtain criminal offender record information.

(e) Have completed the required prelicensing education described in Section 6538.

(f) Have passed the licensing examination administered by the bureau pursuant to Section 6539.

(g) Have at least one of the following:

(1) A baccalaureate degree of arts or sciences from a college or university accredited by a nationally recognized accrediting body of colleges and universities or a higher level of education.

(2) An associate of arts or ~~science~~ *sciences* degree from a college or university accredited by a nationally recognized accrediting body of colleges and universities, and at least ~~five~~ *three* years of experience *working as a professional fiduciary or working with* substantive fiduciary responsibilities ~~working~~ for a professional fiduciary, public agency, or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

(3) Experience of not less than ~~three~~ *five* years, prior to July 1, 2008, *working as a professional fiduciary or working with* substantive fiduciary responsibilities ~~working~~ for a public agency or financial institution acting as a conservator, guardian, trustee, personal representative, or agent under a power of attorney.

1 (h) Agree to adhere to the Professional Fiduciaries Code of
2 Ethics and to all statutes and regulations.

3 (i) Consent to the bureau conducting a credit check on the
4 applicant.

5 (j) File a completed application for licensure with the bureau
6 on a form provided by the bureau and signed by the applicant under
7 penalty of perjury.

8 (k) Submit with the license application a nonrefundable
9 application fee, as specified in this chapter.

10 SEC. 3. Section 7058 of the Business and Professions Code is
11 amended to read:

12 7058. (a) A specialty contractor is a contractor whose
13 operations involve the performance of construction work requiring
14 special skill and whose principal contracting business involves the
15 use of specialized building trades or crafts.

16 (b) A specialty contractor includes a contractor whose operations
17 include the business of servicing or testing fire extinguishing
18 systems.

19 (c) A specialty contractor includes a contractor whose operations
20 are concerned with the installation and laying of carpets, linoleum,
21 and resilient floor covering.

22 (d) A specialty contractor includes a contractor whose operations
23 are concerned with preparing or removing roadway construction
24 zones, lane closures, flagging, or traffic diversions on roadways,
25 including, but not limited to, public streets, highways, or any public
26 conveyance.

27 ~~On and after January 1, 2001, no person or entity shall set up or~~
28 ~~remove roadway construction zones, lane closures, flagging, or~~
29 ~~traffic diversions on any roadway unless that person or entity holds~~
30 ~~the appropriate specialty license pursuant to this chapter.~~

31 SEC. 4. Section 7071.6 of the Business and Professions Code
32 is amended to read:

33 7071.6. (a) The board shall require as a condition precedent
34 to the issuance, reinstatement, reactivation, renewal, or continued
35 maintenance of a license, that the applicant or licensee file or have
36 on file a contractor's bond in the sum of ~~ten thousand dollars~~
37 ~~(\$10,000), regardless of the classification. However, on and after~~
38 ~~January 1, 2007, the sum of the bond that an applicant or licensee~~
39 ~~is required to have on file shall be twelve thousand five hundred~~
40 ~~dollars (\$12,500).~~

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other provision of law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.

SEC. 5. Section 7071.9 of the Business and Professions Code is amended to read:

7071.9. (a) If the qualifying individual, as referred to in Sections 7068 and 7068.1, is ~~not either~~ *neither* the proprietor, a general partner, ~~or nor~~ a joint licensee, he or she shall file or have on file a qualifying individual's bond as provided in Section 7071.10 in the sum of ~~seven thousand five hundred dollars (\$7,500)~~ *twelve thousand five hundred dollars (\$12,500)*. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license. ~~However, on and after January 1, 2007, the sum of the bond that a qualifying individual is required to have on file shall be twelve thousand five hundred dollars (\$12,500).~~

(b) Excluding the claims brought by the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10, the aggregate liability of a surety on claims brought against the bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in paragraph (1) of subdivision (a) of Section 7071.10. However, nothing in this section shall be construed to prevent any beneficiary specified in paragraph (1) of subdivision (a) of Section 7071.10 from claiming or recovering the full measure of the bond required by this section. This bond is in addition to, and may not be combined with, any contractor's bond required by Sections 7071.5 to 7071.8, inclusive, and is required for the issuance, reinstatement, reactivation, or continued valid use of a license.

(c) The responsible managing officer of a corporation shall not be required to file or have on file a qualifying individual's bond, if he or she owns 10 percent or more of the voting stock of the corporation and certifies to that fact on a form prescribed by the registrar.

SEC. 6. Section 9812.5 of the Business and Professions Code is amended to read:

9812.5. The director shall gather evidence of violations of this chapter and of any regulation established hereunder by any service contractor, whether registered or not, and by any employee, partner, officer, or member of any service contractor. The director shall, on his or her own initiative, conduct spot check investigations of service contractors throughout the state on a continuous basis. This section shall remain in effect only until January 1, ~~2008~~ 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2008~~ 2013, deletes or extends that date.

SEC. 7. Section 9830.5 of the Business and Professions Code is amended to read:

9830.5. Each service contractor shall pay the fee required by this chapter for each place of business operated by him or her in this state and shall register with the bureau upon forms prescribed by the director. The forms shall contain sufficient information to identify the service contractor, including name, address, retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division

2 of the Revenue and Taxation Code), a copy of the certificate of qualification as filed with the Secretary of State if the service contractor is a foreign corporation, and other identifying data to be prescribed by the bureau. If the business is to be carried on under a fictitious name, that fictitious name shall be stated. If the service contractor is a partnership, identifying data shall be stated for each partner. If the service contractor is a private company that does not file an annual report on Form 10-K with the Securities and Exchange Commission, data shall be included for each of the officers and directors of the company as well as for the individual in charge of each place of the service contractor's business in the State of California, subject to any regulations the director may adopt. If the service contractor is a publicly held corporation or a private company that files an annual report on Form 10-K with the Securities and Exchange Commission, it shall be sufficient for purposes of providing data for each of the officers and directors of the corporation or company to file with the director the most recent annual report on Form 10-K that is filed with the Securities and Exchange Commission.

A service contractor who does not operate a place of business in this state but who sells, issues, or administers service contracts in this state, shall hold a valid registration issued by the bureau and shall pay the registration fee required by this chapter as if he or she had a place of business in this state.

This section shall remain in effect only until January 1, ~~2008~~ 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2008~~ 2013, deletes or extends that date.

SEC. 8. Section 9831 of the Business and Professions Code is amended to read:

9831. Upon receipt of the form properly filled out and receipt of the required fee, the director shall, provided the applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480, ~~validate~~ *issue* the registration and send a proof of ~~such validation~~ *issuance* to the service dealer. The director shall by regulation prescribe conditions upon which a person whose registration has previously been ~~invalidated~~ *revoked* or has previously been ~~refused validation~~ *denied*, may have his or her registration ~~validated~~ *issued*.

1 SEC. 9. Section 9832.5 of the Business and Professions Code
2 is amended to read:

3 9832.5. (a) Registrations issued under this chapter shall expire
4 no more than 12 months after the issue date. The expiration date
5 of registrations shall be set by the director in a manner to best
6 distribute renewal procedures throughout the year.

7 (b) To renew an unexpired registration, the service contractor
8 shall, on or before the expiration date of the registration, apply for
9 renewal on a form prescribed by the director, and pay the renewal
10 fee prescribed by this chapter.

11 (c) To renew an expired registration, the service contractor shall
12 apply for renewal on a form prescribed by the director, pay the
13 renewal fee in effect on the last regular renewal date, and pay all
14 accrued and unpaid delinquency and renewal fees.

15 (d) Renewal is effective on the date that the application is filed,
16 the renewal fee is paid, and all delinquency fees are paid.

17 (e) For purposes of implementing the distribution of the renewal
18 of registrations throughout the year, the director may extend, by
19 not more than six months, the date fixed by law for renewal of a
20 registration, except that, in that event, any renewal fee that may
21 be involved shall be prorated in such a manner that no person shall
22 be required to pay a greater or lesser fee than would have been
23 required had the change in renewal dates not occurred.

24 (f) This section shall remain in effect only until January 1, 2008
25 2013, and as of that date is repealed, unless a later enacted statute,
26 which is enacted before January 1, 2008 2013, deletes or extends
27 that date.

28 SEC. 10. Section 9841 of the Business and Professions Code
29 is amended to read:

30 9841. (a) The director may ~~refuse to validate~~ *deny*, ~~or may~~
31 ~~invalidate temporarily or permanently~~ *suspend, revoke, or place*
32 *on probation* the registration of a service dealer for any of the
33 following acts or omissions done by himself or herself or any
34 employee, partner, officer, or member of the service dealer and
35 related to the conduct of his or her business:

36 (1) Making or authorizing any statement or advertisement ~~which~~
37 *that* is untrue or misleading, and ~~which that~~ *that* is known, or which
38 by the exercise of reasonable care should be known, to be untrue
39 or misleading.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, installation, service, or maintenance of the equipment as specified by this chapter.

(3) Any other conduct ~~which~~ *that* constitutes fraud or dishonest dealing.

(4) Conduct constituting incompetence or negligence.

(5) Failure ~~in any material respect~~ to comply with the provisions of this chapter or ~~regulations thereunder~~ *any regulation, rule, or standard established pursuant to this chapter*.

(6) Any willful departure from or disregard of accepted trade standards for good and workmanlike installation or repair.

(7) Conviction of a crime ~~which~~ *that* has a substantial relationship to the qualifications, functions and duties of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(8) *A violation of any order of the bureau made pursuant to this chapter.*

(b) The director may also ~~refuse to validate~~ *deny*, or may ~~invalidate temporarily or permanently~~ *suspend, revoke, or place on probation*, the registration of a service dealer if the applicant or registrant, as the case may be, has committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The director may also ~~refuse to validate~~ *deny*, or may ~~invalidate temporarily or permanently~~ *suspend, revoke, or place on probation*, the registration of a service dealer if the applicant or registrant, as the case may be, will be or is holding the registration for the benefit of a former registrant whose registration has been suspended or revoked and who will continue to have some involvement in the applicant's or new registrant's business.

SEC. 11. Section 9847.5 of the Business and Professions Code is amended to read:

9847.5. Each service contractor shall maintain those records as are required by the regulations adopted to carry out the provisions of this chapter for a period of at least three years. These records shall be open for reasonable inspection by the director or other law enforcement officials.

This section shall remain in effect only until January 1, ~~2008~~ *2013*, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2008~~ 2013, deletes or extends
2 that date.

3 SEC. 12. Section 9848 of the Business and Professions Code
4 is amended to read:

5 9848. All proceedings to ~~refuse to validate and temporarily or~~
6 ~~permanently to invalidate~~ *deny registration or suspend, revoke,*
7 *or place on probation* a registration shall be conducted pursuant
8 to Chapter 5 (commencing with Section 11500) of Part 1 of
9 Division 3 of Title 2 of the Government Code.

10 SEC. 13. Section 9849 of the Business and Professions Code,
11 as amended by Section 23 of Chapter 405 of the Statutes of 2002,
12 is amended to read:

13 9849. The expiration of a valid registration shall not deprive
14 the director of jurisdiction to proceed with any investigation or
15 hearing on a cease and desist order against a service dealer or
16 service contractor or to render a decision ~~invalidating~~ *to suspend,*
17 *revoke, or place on probation* a registration ~~temporarily or~~
18 ~~permanently~~.

19 This section shall remain in effect only until January 1, ~~2008~~
20 2013, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 1, ~~2008~~ 2013, deletes or extends
22 that date.

23 SEC. 14. Section 9849 of the Business and Professions Code,
24 as amended by Section 22 of Chapter 405 of the Statutes of 2002,
25 is amended to read:

26 9849. The expiration of a valid registration shall not deprive
27 the director of jurisdiction to proceed with any investigation or
28 hearing on a cease and desist order against a service dealer or to
29 render a decision ~~invalidating~~ *to suspend, revoke, or place on*
30 *probation* a registration ~~temporarily or permanently~~.

31 This section shall become operative on January 1, ~~2008~~ 2013.

32 SEC. 15. Section 9851 of the Business and Professions Code,
33 as amended by Section 25 of Chapter 405 of the Statutes of 2002,
34 is amended to read:

35 9851. The superior court in and for the county wherein any
36 person carries on, or attempts to carry on, business as a service
37 dealer or service contractor in violation of the provisions of this
38 chapter, or any regulation thereunder, shall, on application of the
39 director, issue an injunction or other appropriate order restraining
40 that conduct.

1 The proceedings under this section shall be governed by Chapter
2 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
3 of Civil Procedure, except that the director shall not be required
4 to allege facts necessary to show or tending to show lack of an
5 adequate remedy at law or irreparable injury.

6 This section shall remain in effect only until January 1, 2008
7 2013, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, 2008 2013, deletes or extends
9 that date.

10 SEC. 16. Section 9851 of the Business and Professions Code,
11 as amended by Section 24 of Chapter 405 of the Statutes of 2002,
12 is amended to read:

13 9851. The superior court in and for the county wherein any
14 person carries on, or attempts to carry on, business as a service
15 dealer in violation of the provisions of this chapter, or any
16 regulation thereunder, shall, on application of the director, issue
17 an injunction or other appropriate order restraining that conduct.

18 The proceedings under this section shall be governed by Chapter
19 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
20 of Civil Procedure, except that the director shall not be required
21 to allege facts necessary to show or tending to show lack of an
22 adequate remedy at law or irreparable injury.

23 This section shall become operative on January 1, 2008 2013.

24 SEC. 17. Section 9853 of the Business and Professions Code,
25 as amended by Section 27 of Chapter 405 of the Statutes of 2002,
26 is amended to read:

27 9853. A plea or verdict of guilty or a conviction following a
28 plea of nolo contendere made to a charge substantially related to
29 the qualifications, functions, and duties of a service dealer or
30 service contractor is deemed to be a conviction within the meaning
31 of this article. The director may ~~order the registration temporarily~~
32 ~~or permanently invalidated~~ *suspend, revoke, or place on probation*
33 *a registration*, or may ~~decline to issue a~~ *deny* registration, when
34 the time for appeal has elapsed, or the judgment of conviction has
35 been affirmed on appeal or when an order granting probation is
36 made suspending the imposition of sentence, irrespective of a
37 subsequent order under Section 1203.4 of the Penal Code, allowing
38 that person to withdraw his or her plea of guilty and to enter a plea
39 of not guilty, or setting aside the verdict of guilty, or dismissing
40 the accusation, information, or indictment.

1 This section shall remain in effect only until January 1, ~~2008~~
2 ~~2013~~, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, ~~2008~~ ~~2013~~, deletes or extends
4 that date.

5 SEC. 18. Section 9853 of the Business and Professions Code,
6 as amended by Section 26 of Chapter 405 of the Statutes of 2002,
7 is amended to read:

8 9853. A plea or verdict of guilty or a conviction following a
9 plea of nolo contendere made to a charge substantially related to
10 the qualifications, functions, and duties of a service dealer is
11 deemed to be a conviction within the meaning of this article. The
12 director may ~~order the registration temporarily or permanently~~
13 ~~invalidated~~ *suspend, revoke, or place on probation a registration,*
14 or may ~~decline to issue a~~ *deny* registration, when the time for
15 appeal has elapsed, or the judgment of conviction has been affirmed
16 on appeal or when an order granting probation is made suspending
17 the imposition of sentence, irrespective of a subsequent order under
18 Section 1203.4 of the Penal Code allowing that person to withdraw
19 his or her plea of guilty and to enter a plea of not guilty, or setting
20 aside the verdict of guilty, or dismissing the accusation,
21 information, or indictment.

22 This section shall become operative on January 1, ~~2008~~ ~~2013~~.

23 SEC. 19. Section 9855.7 of the Business and Professions Code
24 is amended to read:

25 9855.7. The director may ~~refuse to validate~~ *deny*, or may
26 ~~temporarily or permanently invalidate~~ *suspend, revoke, or place*
27 *on probation* the registration of a service contractor for any act,
28 omission, or crime that is committed by the service contractor or
29 any employee, partner, officer, or agent of the service contractor
30 for any of the following reasons:

31 (a) Any conduct ~~which~~ *that* constitutes fraud or dishonest
32 dealing.

33 (b) Conviction of a crime ~~which~~ *that* has a substantial
34 relationship to the qualifications, functions and duties of a registrant
35 under this chapter, in which event the record of conviction shall
36 be conclusive evidence thereof.

37 (c) Assisting in or abetting the violation of, or conspiring to
38 violate, any provision of this article, or of regulations adopted
39 under this article.

1 SEC. 20. Section 9855.8 of the Business and Professions Code
2 is amended to read:

3 9855.8. (a) The director may issue a citation to the service
4 contractor for any of the following reasons:

5 (1) Violation of subdivision (a) of Section 9855.3 or Section
6 9855.5, or any regulation adopted thereunder.

7 (2) Upon a determination by the director that the service
8 contractor has committed a violation by (A) making or authorizing
9 statements or advertisements which are untrue or misleading; or
10 (B) making false promises of a character likely to influence,
11 persuade, or induce a customer to purchase a service contract as
12 provided by this chapter.

13 (3) For purposes of this section, a violation consists of a single
14 publication or single course of conduct ~~which~~ *that* is determined
15 by the director to be untrue or misleading.

16 (b) The citation may contain an order of abatement and an order
17 to pay an administrative fine assessed by the director.

18 (1) Each citation shall be in writing and shall describe with
19 particularity the nature of the violation, including a specific
20 reference to the provision of law determined to have been violated.

21 (2) Where appropriate, the citation shall contain an order of
22 abatement fixing a reasonable time for abatement of the violation.

23 (3) A citation or fine assessment issued pursuant to a citation
24 shall inform the service contractor that if he or she desires a hearing
25 to contest the finding of a violation, that hearing shall be requested
26 by written notice to the bureau within 30 days of the date of
27 issuance of the citation or assessment. If a hearing is not requested
28 pursuant to this section, payment of any fine shall not constitute
29 an admission of the violation charged. Hearings shall be held
30 pursuant to Chapter 5 (commencing with Section 11500) of Part
31 1 of Division 3 of Title 2 of the Government Code.

32 (4) (A) In addition to requesting a hearing as provided for
33 herein, the service contractor may request a citation review
34 conference with the director or his or her designee regarding the
35 acts charged in the citation. A citation review conference shall be
36 requested by written notice to the bureau within 20 days of the
37 date of the issuance of the citation or assessment.

38 (B) The director or his or her designee shall hold a citation
39 review conference within 60 days from the receipt of the request.

40 At the conclusion of the citation review conference, the director

1 or his or her designee shall state, in writing, the reasons for his or
2 her action and transmit a copy of his or her findings and decision
3 to the service contractor.

4 (5) The failure of a service contractor to pay a fine within 30
5 days of the date of assessment, unless the citation is being appealed,
6 may result in disciplinary action being taken by the director. Where
7 a citation is not contested and a fine is not paid, the full amount
8 of the assessed fine shall be added to the fee for renewal of the
9 registration. A registration shall not be renewed without payment
10 of the renewal fee and fine.

11 (c) Where a citation includes an administrative fine, it shall be
12 issued in accordance with the following procedures:

13 (1) For the first citation, the director may assess an
14 administrative fine of not less than one hundred dollars (\$100) but
15 not more than five hundred dollars (\$500).

16 (2) For the second citation issued during any one year period,
17 the director may assess an administrative fine of not less than five
18 hundred dollars (\$500) but not more than one thousand dollars
19 (\$1,000).

20 (3) For the third citation issued during any two-year period, the
21 director may assess an administrative fine of not less than one
22 thousand dollars (\$1,000) but not more than two thousand dollars
23 (\$2,000).

24 (4) For the fourth violation of subdivision (a) of Section 9855.3
25 or of Section 9855.5, or any regulation adopted thereunder, during
26 any two-year period, the director may either assess an
27 administrative fine of not less than one thousand dollars (\$1,000)
28 but not more than two thousand dollars (\$2,000) or ~~invalidate~~
29 ~~temporarily or permanently the~~ *suspend, revoke, or place on*
30 *probation a* registration of the service contractor.

31 SEC. 21. Section 9855.9 of the Business and Professions Code
32 is amended to read:

33 9855.9. This article shall remain in effect only until January
34 1, ~~2008~~ 2013, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, ~~2008~~ 2013, deletes or
36 extends that date.

37 SEC. 22. Section 9860 of the Business and Professions Code,
38 as amended by Section 30 of Chapter 405 of the Statutes of 2002,
39 is amended to read:

1 9860. The director shall establish procedures for accepting
2 complaints from the public against any service dealer or service
3 contractor.

4 This section shall remain in effect only until January 1, ~~2008~~
5 2013, and as of that date is repealed, unless a later enacted statute,
6 that is enacted before January 1, ~~2008~~ 2013, deletes or extends
7 that date.

8 SEC. 23. Section 9860 of the Business and Professions Code,
9 as amended by Section 29 of Chapter 405 of the Statutes of 2002,
10 is amended to read:

11 9860. The director shall establish procedures for accepting
12 complaints from the public against any service dealer.

13 This section shall become operative on January 1, ~~2008~~ 2013.

14 SEC. 24. Section 9862.5 of the Business and Professions Code
15 is amended to read:

16 9862.5. If a complaint indicates a possible violation of this
17 chapter or of the regulations adopted pursuant to this chapter, the
18 director may advise the service contractor of the contents of the
19 complaint and, if the service contractor is so advised, the director
20 shall make a summary investigation of the facts after the service
21 dealer has had reasonable opportunity to reply thereto.

22 This section shall remain in effect only until January 1, ~~2008~~
23 2013, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before January 1, ~~2008~~ 2013, deletes or extends
25 that date.

26 SEC. 25. Section 9863 of the Business and Professions Code,
27 as amended by Section 33 of Chapter 405 of the Statutes of 2002,
28 is amended to read:

29 9863. If, upon summary investigation, it appears probable to
30 the director that a violation of this chapter, or the regulations
31 thereunder, has occurred, the director, in his or her discretion, may
32 suggest measures that in the director's judgment would compensate
33 the complainant for the damages he or she has suffered as a result
34 of the alleged violation. If the service dealer or service contractor
35 accepts the director's suggestions and performs accordingly, the
36 director shall give that fact due consideration in any subsequent
37 disciplinary proceeding. If the service dealer or service contractor
38 declines to abide by the suggestions of the director, the director
39 may investigate further and may institute disciplinary proceedings
40 in accordance with the provisions of this chapter.

1 This section shall remain in effect only until January 1, ~~2008~~
2 ~~2013~~, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, ~~2008~~ ~~2013~~, deletes or extends
4 that date.

5 SEC. 26. Section 9863 of the Business and Professions Code,
6 as amended by Section 32 of Chapter 405 of the Statutes of 2002,
7 is amended to read:

8 9863. If, upon summary investigation, it appears probable to
9 the director that a violation of this chapter, or the regulations
10 thereunder, has occurred, the director, in his or her discretion, may
11 suggest measures that in the director's judgment would compensate
12 the complainant for the damages he or she has suffered as a result
13 of the alleged violation. If the service dealer accepts the director's
14 suggestions and performs accordingly, the director shall give that
15 fact due consideration in any subsequent disciplinary proceeding.
16 If the service dealer declines to abide by the suggestions of the
17 director, the director may investigate further and may institute
18 disciplinary proceedings in accordance with the provisions of this
19 chapter.

20 This section shall become operative on January 1, ~~2008~~ ~~2013~~.

21 SEC. 27. Section 9873 of the Business and Professions Code,
22 as amended by Section 35 of Chapter 405 of the Statutes of 2002,
23 is amended to read:

24 9873. The fees prescribed by this chapter shall be set by the
25 director by regulation, according to the following schedule:

26 (a) (1) The initial registration fee for an electronic repair
27 industry service dealer or for an appliance repair industry service
28 dealer is not more than one hundred sixty-five dollars (\$165) for
29 each place of business in this state. The initial registration fee for
30 a service contractor is not more than seventy-five dollars (\$75) for
31 each place of business in this state.

32 (2) The initial registration fee for a person who engages in
33 business as both an electronic repair industry service dealer and
34 an appliance repair industry service dealer is not more than three
35 hundred twenty-five dollars (\$325) for each place of business in
36 this state. The initial registration fee for a person who is a service
37 contractor and engages in business as either an electronic repair
38 industry service dealer or an appliance repair industry service
39 dealer is not more than two hundred forty dollars (\$240) for each
40 place of business in this state.

1 (3) The initial registration fee for a person who engages in both
2 the electronic repair industry and the appliance repair industry as
3 a service dealer and is a service contractor is not more than four
4 hundred dollars (\$400) for each place of business in this state.

5 (4) On or after January 1, 2000, the initial registration fee for a
6 service contractor described in subdivision (e) of Section 12741
7 of the Insurance Code shall be set by the director in an amount not
8 to exceed the actual and direct costs associated with the regulation
9 of those service contractors, but in no event more than fifty
10 thousand dollars (\$50,000).

11 A service dealer or service contractor who does not operate a
12 place of business in this state, but engages in the electronic repair
13 industry, the appliance repair industry, or sells, issues, or
14 administers service contracts in this state shall pay the registration
15 fee specified herein as if he or she had a place of business in this
16 state.

17 (b) (1) The annual registration renewal fee for an electronic
18 repair industry service dealer or for an appliance repair industry
19 service dealer is not more than one hundred sixty-five dollars
20 (\$165) for each place of business in this state, if renewed prior to
21 its expiration date. The annual registration renewal fee for a service
22 contractor is seventy-five dollars (\$75) for each place of business
23 in this state, if renewed prior to its expiration date.

24 (2) The annual renewal fee for a service dealer who engages in
25 the business as both an electronic repair industry service dealer
26 and an appliance repair industry service dealer is not more than
27 three hundred dollars (\$300) for each place of business in this
28 state.

29 (3) The annual renewal fee for a service dealer who engages in
30 the electronic repair industry and the appliance repair industry and
31 is a service contractor is not more than three hundred seventy-five
32 dollars (\$375) for each place of business in this state.

33 (4) It is the intent of the Legislature that the amount of the
34 annual registration renewal fee for a service contractor described
35 in subdivision (e) of Section 12741 of the Insurance Code shall be
36 evaluated and set by the Legislature.

37 A service dealer or service contractor who does not operate a
38 place of business in this state, but who engages in the electronic
39 repair industry, the appliance repair industry, or sells or issues

1 service contracts in this state shall pay the registration fee specified
2 herein as if he or she had a place of business in this state.

3 (c) The delinquency fee is an amount equal to 50 percent of the
4 renewal fee for a license in effect on the date of renewal of the
5 license, except as otherwise provided in Section 163.5.

6 This section shall remain in effect only until January 1, ~~2008~~
7 2013, and as of that date is repealed, unless a later enacted statute,
8 which is enacted before January 1, ~~2008~~ 2013, deletes or extends
9 that date.

10 SEC. 28. Section 9873 of the Business and Professions Code,
11 as amended by Section 34 of Chapter 405 of the Statutes of 2002,
12 is amended to read:

13 9873. The fees prescribed by this chapter shall be set by the
14 director by regulation, according to the following schedule:

15 (a) The initial registration fee for an electronic repair industry
16 service dealer or for an appliance repair industry service dealer is
17 not more than one hundred sixty-five dollars (\$165) for each place
18 of business in this state. The initial registration fee for a person
19 who engages in business as both an electronic repair industry
20 service dealer and an appliance repair industry service dealer is
21 not more than three hundred twenty-five dollars (\$325).

22 (b) The annual registration renewal fee for an electronic repair
23 industry service dealer or for an appliance repair industry service
24 dealer is not more than one hundred sixty-five dollars (\$165) for
25 each place of business in this state, if renewed prior to its expiration
26 date. The annual renewal fee for a service dealer who engages in
27 the business as both an electronic repair industry service dealer
28 and an appliance repair industry service dealer is not more than
29 three hundred dollars (\$300).

30 (c) The delinquency fee is an amount equal to 50 percent of the
31 renewal fee for a license in effect on the date of renewal of the
32 license, except as otherwise provided in Section 163.5.

33 This section shall become operative on January 1, ~~2008~~ 2013.

34 SEC. 29. Section 9884.20 is added to the Business and
35 Professions Code, to read:

36 9884.20. All accusations against automotive repair dealers
37 shall be filed within three years after the performance of the act
38 or omission alleged as the ground for disciplinary action, except
39 that with respect to an accusation alleging fraud or
40 misrepresentation as a ground for disciplinary action, the accusation

1 may be filed within two years after the discovery, by the bureau,
2 of the alleged facts constituting the fraud or misrepresentation.

3 SEC. 30. Section 19008.1 of the Business and Professions
4 Code is amended to read:

5 19008.1. “Used” means furniture *or bedding* that has been
6 previously owned or used by another individual.

7 SEC. 31. Section 19129 of the Business and Professions Code
8 is amended to read:

9 ~~19129. Articles of secondhand~~ *Secondhand or used* bedding
10 and any secondhand *or used* article that can be used for sleeping
11 purposes shall be sanitized under the provisions of this chapter
12 before being sold.

13 SEC. 32. Section 19132 of the Business and Professions Code
14 is amended to read:

15 19132. New or sanitized articles of bedding or materials shall
16 at all times be kept separate from any secondhand *or used* articles
17 or materials that are unsanitized.

18 SEC. 33. Section 19170.5 of the Business and Professions
19 Code is amended to read:

20 ~~19170.5. Except as provided in Section 19170.3, licenses~~
21 *Licenses* issued under this chapter expire two years from the date
22 of issuance. To renew his or her license, a licensee shall, on or
23 before the date on which it would otherwise expire, apply for
24 renewal on a form prescribed by the chief, and pay the ~~fee~~ *fees*
25 prescribed by ~~Section~~ *Sections* 19170 and ~~Section~~ 19213.1. If a
26 licensee fails to renew his or her license before its expiration, a
27 delinquency fee of 20 percent, but not more than one hundred
28 dollars (\$100), notwithstanding the provisions of Section 163.5,
29 shall be added to the renewal fee. If the renewal fee and
30 delinquency fee are not paid within 90 days after expiration of a
31 license, the licensee shall be assessed an additional penalty fee of
32 30 percent of the renewal fee. ~~A license which is not renewed~~
33 ~~within one year of its expiration shall be canceled but the holder~~
34 ~~of a license may apply to have a license restored, reinstated, or~~
35 ~~reissued if all of the following within are satisfied:~~

36 (a) ~~No fact, circumstance, or condition exists which would~~
37 ~~justify denial of licensure under Section 480.~~

38 (b) ~~He or she pays all of the fees which would be required of~~
39 ~~any person then applying for that license for the first time.~~

1 ~~(e) He or she pays all delinquent and penalty fees which have~~
2 ~~accrued.~~

3 ~~(d) No change of ownership has occurred.~~

4 ~~(e) The additional penalty fee shall only apply to those licenses~~
5 ~~which expire on or after January 1, 1992.~~

6 SEC. 34. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.